

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

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|------------------------------|---|---------------------------|
| Robert Max Watkins, #243803, |) | C/A NO. 3:13-1129-CMC-JRM |
| |) | |
| Petitioner, |) | |
| |) | OPINION and ORDER |
| v. |) | |
| |) | |
| Leroy Cartlege, |) | |
| |) | |
| Respondent. |) | |
| |) | |

This matter is before the court on Petitioner's *pro se* petition for habeas corpus, construed as having been filed in this court pursuant to 28 U.S.C. § 2241.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pre-trial proceedings and a Report and Recommendation ("Report"). On June 10, 2013, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice and without issuance and service of process. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Petitioner filed objections to the Report on June 21, 2013.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by

the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After conducting a *de novo* review as to objections made, and considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge, and Petitioner's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

Petitioner argues he has no available remedy to challenge his allegedly unconstitutional detention in the South Carolina Department of Corrections. However, Petitioner's arguments and exhibits fail to overcome the fact that this court may not interfere, absent extraordinary circumstances, with the ongoing appellate process relating to Petitioner's state court convictions.

Accordingly, this petition is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
June 26, 2013